

B 104

(Rev. 2/92)

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ADVERSARY PROCEEDING NUMBER
(Court Use Only)**ADVERSARY PROCEEDING COVER SHEET**

(instructions on Reverse)

PLAINTIFFS

Timothy Robert James

DEFENDANTS

Mack and Daves

ATTORNEYS (Firm Name, Address, and Telephone No.)

William W. Pepper
 Pepper & Nason
 8 Hale Street
 Charleston, WV 25301
 (304) 346-0361

ATTORNEYS (if Known)

PARTY (Check one box only) 1 U.S. PLAINTIFF 2 U.S. DEFENDANT 3 U.S. NOT A PARTY

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)**NATURE OF SUIT**

(Check the one most appropriate box only.)

<input type="checkbox"/> 454 To Recover Money or Property	<input type="checkbox"/> 455 To revoke an order of confirmation or of a Chap. 11, Chap. 12 or Chap. 13 Plan	<input type="checkbox"/> 456 To obtain a declaratory judgment relating to any of foregoing causes of action
<input type="checkbox"/> 435 To Determine Validity, Priority , Extent of a Lien or Other interest in Property	<input type="checkbox"/> 426 To determine the dischargeability of a debt 11 U.S.C. §523	<input type="checkbox"/> 459 To determine a claim or cause of action removed to a bankruptcy court
<input type="checkbox"/> 458 To obtain approval for the sale of both the interest of the estate and of a co-owner in property	<input type="checkbox"/> 434 To obtain an injunction or other equitable relief	<input type="checkbox"/> 498 Other (specify)
<input type="checkbox"/> 424 To object or to revoke a discharge 11 U.S.C. §727	<input type="checkbox"/> 457 To subordinate any allowed claim or interest except where such subordination is provided in a plan	

ORIGIN OF PROCEEDINGS	X 1 Original Proceeding	<input type="checkbox"/> 2 Removed Proceeding	<input type="checkbox"/> 4 Reinstated or Reopened Bankruptcy	<input type="checkbox"/> 5 Transferred from Another Court	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
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DEMAND	NEAREST THOUSAND \$2,400.00	OTHER RELIEF SOUGHT	<input type="checkbox"/> JURY DEMAND
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BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES

NAME OF DEBTOR BANKRUPTCY CASE NO.

Timothy Robert James 07-10127

DISTRICT IN WHICH CASE IS PENDING	DIVISIONAL OFFICE	NAME OF JUDGE
Southern	West Virginia	Ronald G. Pearson

RELATED ADVERSARY PROCEEDING (IF ANY)

PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
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DISTRICT	DIVISIONAL OFFICE	NAME OF JUDGE
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FILING FEE (Check one box only.)	<input type="checkbox"/> FEE ATTACHED	<input type="checkbox"/> FEE NOT REQUIRED	<input type="checkbox"/> FEE IS DEFERRED
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9/9/07

PRINT NAME

William W. Pepper

SIGNATURE OF ATTORNEY (OR PLAINTIFF)

W.W. Pepper

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

IN RE:

TIMOTHY ROBERT JAMES
Debtor.

Chapter 7
Case No. 07-10127
Liquidation

TIMOTHY ROBERT JAMES

Plaintiff,

v.

A.P. No. 07-

MACK & DAVES

Defendant.

COMPLAINT FOR TURNOVER

Now comes Timothy Robert James by and through undersigned counsel and respectfully represents as follows:

1. That this Court has exclusive jurisdiction over this proceeding under 28 U.S.C. 1471.
2. That debtor/plaintiff filed a voluntary petition under Chapter 7 of the Bankruptcy Code on July 31, 2007.
3. That duly listed in the debtors' schedules is the debt owed to Mack and Daves at its address of 1010 Third Avenue, Huntington, West Virginia, 25701.
4. That within the 90 day preference period Mack and Daves obtained by way of Suggestee Execution wage garnishee in the amount of \$2,760.51 pre-petition, plus interest and court costs.

5. That this levy allowed Mack and Daves to receive a preference inasmuch as they have received wages of the debtor and forced payments from the debtor on a non-priority, non-secured debt.

6. That the debtor duly listed and exempted under Schedules B and C his right to return of this pre-filing wage garnishee.

7. The debtor has the right to the return of the funds taken by Suggestee Execution totaling \$2,401.74, plus attorney fees and costs.

WHEREFORE, debtor/plaintiff requests this Court to require the defendant return to the debtor the \$2,401.74; award him damages, attorney fees and costs; and for such other and further relief as is just.

TIMOTHY ROBERT JAMES
By Counsel

WILLIAM W. PEPPER (WVSB #2857)
Counsel for Debtor/Plaintiff
Pepper & Nason
8 Hale Street
Charleston, West Virginia 25301
(304) 346-0361